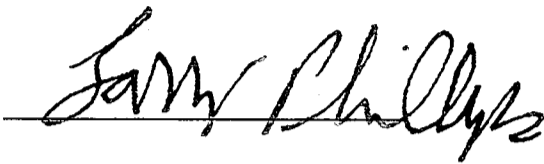


I certify this to be a true and correct
copy of the indicated document as
referred or transmitted to committee.

Chief Clerk of the House

FILED MAR 07 2005

By:



H.B. No. 2133

A BILL TO BE ENTITLED

AN ACT

relating to the use of an administrative penalty imposed by the Texas Commission on Environmental Quality against a municipally owned utility to ameliorate the violation for which the penalty was imposed.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 7, Water Code, is amended by adding Section 7.034 to read as follows:

Sec. 7.034. AMELIORATION OF VIOLATION BY MUNICIPALLY OWNED UTILITY. (a) In this section, "municipally owned utility" and "facilities" have the meanings assigned by Section 13.002.

(b) In lieu of ordering payment of an administrative penalty under Subchapter C against a municipally owned utility for a deficiency in the utility's facilities, the commission may allow the utility to use any portion of the penalty to ameliorate the violation or to improve the facilities.

SECTION 2. Section 7.034, Water Code, as added by this Act, applies only to a violation that occurs on or after the effective date of this Act. A violation that occurs before the effective date of this Act is covered by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2005.

HOUSE COMMITTEE REPORT

05 APR 28 PM 9:26
HOUSE OF REPRESENTATIVES

1st Printing

By: Phillips

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COMMITTEE REPORT

The Honorable Tom Craddick
Speaker of the House of Representatives

4/20/05
(date)

Sir:

We, your COMMITTEE ON NATURAL RESOURCES

to whom was referred HB 2133 have had the same under consideration and beg to report back with the recommendation that it

- ☒ do pass, without amendment.
☐ do pass, with amendment(s).
☐ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- ☒ yes ☐ no A fiscal note was requested.
☐ yes ☒ no A criminal justice policy impact statement was requested.
☐ yes ☒ no An equalized educational funding impact statement was requested.
☐ yes ☒ no An actuarial analysis was requested.
☐ yes ☒ no A water development policy impact statement was requested.
☐ yes ☒ no A tax equity note was requested.
☐ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor _____

Joint Sponsors: _____ / _____ / _____

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Puente, Chair	X			
Callegari, Vice-chair				X
Bonnen	X			
Campbell				X
Geren	X			
Hardcastle	X			
Hilderbran	X			
Hope	X			
Laney	X			

Total 7 aye
 0 nay
 0 present, not voting
 2 absent

Melt MF
CHAIR

BILL ANALYSIS

H.B. 2133
By: Phillips
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Chapter 7 of the Water Code gives the Texas Commission on Environmental Quality (TCEQ) the authority to levee administrative penalties against municipally owned utilities for deficiencies in the municipality's utility facilities. §7.067 allows TCEQ to waive up to 100% of the administrative penalty if the municipality agrees to spend the fine amount on a supplemental environmental project within the municipality in lieu of paying the fine. These projects are unrelated to the deficient systems.

Many small municipalities in Texas have aging utility systems. Given the very limited budgets of these municipalities, these fine amounts could often be more effectively used to ameliorate the violation for which the penalty was imposed. HB 2133 would give TCEQ the authority to allow a municipally owned utility to use any portion of an administrative penalty under Subchapter C, Chapter 7, Water Code to ameliorate the violation or to improve the system.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Adds Section 7.034 to the Water Code to give the Texas Commission on Environmental Quality (TCEQ) the authority to allow a municipally owned utility to use any portion of an administrative penalty under Subchapter C, Chapter 7, Water Code to ameliorate the violation or to improve the facilities.

SECTION 2. Provides that Section 7.034 applies only to a violation that occurs on or after the effective date of the bill.

EFFECTIVE DATE

HB 2133 takes effect on September 1, 2005.

SUMMARY OF COMMITTEE ACTION

HB 2133

April 18, 2005 2:00PM or upon final adjourn./recess

Considered in public hearing

Left pending in committee

April 20, 2005 upon final adjourn./recess

Considered in formal meeting

Reported favorably without amendment(s)

2
4

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 15, 2005

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB2133 by Phillips (Relating to the use of an administrative penalty imposed by the Texas Commission on Environmental Quality against a municipally owned utility to ameliorate the violation for which the penalty was imposed.), **As Introduced**

<p>No significant fiscal implication to the State is anticipated.</p>
--

The bill would provide for the Texas Commission on Environmental Quality (TCEQ) to allow a municipally owned utility that is under enforcement for a deficiency in the utility's facilities to use any portion of an administrative penalty to correct the violation or to improve the facilities in lieu of ordering payment of the penalty. The TCEQ reports that this could result in a decrease in penalties deposited to the General Revenue Fund. However, the revenue loss is not expected to be significant.

Local Government Impact

The bill could result in a savings to municipalities, since it would allow them to use funds otherwise required for penalty payments to correct problems with their facilities, and since such municipalities already have to pay the costs to correct problems under current law.

Source Agencies: 582 Commission on Environmental Quality

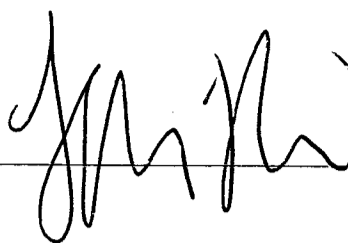
LBB Staff: JOB, WK, ZS, TL, KJG

H.B. No.

2133

A BILL TO BE ENTITLED
AN ACT

By



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MAR 07 2005

Filed with the Chief Clerk

MAR 14 2005

Read first time and referred to Committee on Natural Resources

APR 20 2005

Reported favorably ()
()

MAY 02 2005

Sent to Committee on (Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of _____ yeas, _____ nays, _____ present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

Received from the House

Read and referred to Committee on _____

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(_____ yeas, _____ nays)

Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(_____ yeas, _____ nays)

Senate and Constitutional 3 Day Rules suspended by a vote of _____ yeas, _____ nays

Read third time, _____, and passed by a (viva voce vote)
(_____ yeas, _____ nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,
_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)

05 APR 28 PM 9 26

HOUSE OF REPRESENTATIVES